

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

UNITED STATES OF AMERICA)
)
) No. 1:06-CR-113
v.)
) Chief Judge Curtis L. Collier
)
EARL McELHENNEY)

ORDER

Before the Court is the United States' ("Government") motion to continue (Court File No. 55). The Government moves the Court to reset the Defendant Earl McElheney's ("Defendant") sentencing hearing, which is currently set for June 21, 2007. As cause the Government asserts the Probation Office has advised that due to certain matters which have recently come to light, Defendant's presentence report will be revised. Accordingly, the Government requests more time for both parties to adequately analyze and respond to the revised presentence report once it is completed. Defendant filed a response contending that he desires this matter to be concluded and, therefore, opposes a continuance. (Court File No. 56).

Defendant has been detained since his bond was revoked in December of 2006 (Court File Nos. 11, 12, & 13). The Count of the Indictment which Defendant pleaded guilty to carries a five (5) year minimum sentence of imprisonment. *See* 18 U.S.C. § 2252A(b)(1). Therefore, the Court finds Defendant will not suffer harm as a result of a brief continuance of his sentencing hearing. Additionally, as the Court has an obligation to calculate the advisory guidelines' sentence correctly, the Court finds a continuance is justified in order to allow the Probation Office time to revise the presentence report. Accordingly, for the foregoing reasons, the Court **GRANTS** the Government's

motion for a continuance and **ORDERS** Defendant's sentencing hearing will be held on **August 9, 2007 at 9:00 a.m.**

SO ORDERED.

ENTER:

/s/

**CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE**